

PLANNING COMMISSION MEETING MINUTES  
CITY OF PORT ORANGE  
COUNCIL CHAMBERS  
1000 CITY CENTER CIRCLE  
PORT ORANGE, FLORIDA  
AUGUST 23, 2018

THE REGULAR MEETING OF THE PLANNING COMMISSION of the City of Port Orange was called to order by Chairman Newton White at 5:30p.m.

Pledge of Allegiance

Silent Prayer

ROLL CALL:

Present: Lance Green  
John Junco  
Maria Mills-Benat  
Mike Arminio  
Thomas Jordan  
Newton White  
Bo Bofamy

Also Present: Matt Jones, Deputy City Attorney  
Deanna Massey, City Clerk's office

**B. DISCUSSION/ACTION**

4. Consideration of July 26, 2018 Minutes

*Motion to approve the July 26, 2018 Minutes as presented was made by Commissioner Arminio and Seconded by Commissioner Mills-Benat. Motion carried unanimously by roll call vote.*

5. Case No. 18-90000004  
Variance/4068 Carlisle Drive.

**(Continued from July 26, 2018 Planning Commission Meeting)**

A request by the applicant for variances from the Land Development Code to allow only one point of access for a subdivision, reduce the minimum right-of-way width, provide a sidewalk on one side of the right-of-way, reduce the minimum required lot area, reduce the rear building setback, reduce the minimum open space per lot, and increase maximum building coverage per lot. If the variances are approved, the property owner

plans to change the Bella Oaks townhome development from a multifamily site development project to a residential subdivision with individual townhome lots.

Staff Contact: Gwen Perney, (386) [506-5673/gperney@port-orange.org](mailto:gperney@port-orange.org)

Commissioner Green is abstaining from voting on case No. 18-90000004 due to a conflict of interest with the applicant.

Penelope Cruz, Planning Manager, provided an overview of the variances requested by the applicant to the LDC to allow only one point of access for a subdivision, reduce the minimum required lot area, reduce the rear building setback, reduce the minimum open space per lot, and increase maximum building coverage per lot.

Glenn Storch, applicant, provided details with a PowerPoint presentation on the Bella Oaks Subdivision. Some of the topics he touched on were the proposed plan, landscaping, rear yard setbacks, and some of the reasons for the requested changes which include allowing for homeownership of property and yard and providing residents with a better sense of community. He encouraged residents to contact the office if they have any questions or concerns.

Vice Chairman Jordan asked what the special conditions include and if they could do a subdivision development and meet all of the LDC requirements.

Mr. Storch replied he isn't aware of any other piece of property that sits with a single point of access at the corner that has existing residential around it and is attempting to make use of the property conditions as they are. Also, the existing development and the inconsistencies in the code are what is driving these changes.

Commissioner Arminio likes the idea of increasing the buffers.

Commissioner Mills-Benat asked if the Board will be voting on the variances individually or together.

Mr. Storch replied the variances are interrelated with each other so if one is denied the others will no longer work.

Commissioner Junco spoke on his concern in regard to parking. Many families have more than one car and you don't want people parking in the street. If they park two cars back to back, they need to make sure they don't hang over the sidewalk.

Ms. Cruz spoke to the concerns on parking and stated they will be offering one car garage and a driveway that meets the requirements for one vehicle without obstructing the sidewalk.

Mr. Storch stated there will be 35 spaces for guest parking along with the two spots available to the residents.

Chairman White expressed his concerns of the rules of the homeowner's association not being as strong as the condominium association rules.

Jim Paytas, Paytas Homes, addressed the concerns about the homeowner's association and stated the developer will be in control and do the best they can until they turn it over to the association.

Teresa Newton, 4060 Carlisle Dr. expressed her concern with excess water and drainage issues since the land has been cleared. She would like some assurance that the construction from this development will not make the issue worse.

Commissioner Junco stated the developer does have to submit a drainage plan prior to staff approving the development.

Commissioner Mills-Benat stated that when the construction is completed the retention pond will help with the excess water issues.

Vice Chairman Jordan stated if we allow cutting back on variances with this development then we will have to do the same for other developers.

Commissioners Bofamy and Junco feel the circumstances for this development are unique and have already been submitted and approved.

*Motion to approve Case No. 18-90000004 was made by Commissioner Mills-Benat and Seconded by Commissioner Arminio. Motion carried 4-1 with Commissioner Mills-Benat, Commissioner Junco, Commissioner Arminio, Chairman White voting yes, Vice Chairman Jordan voting no, and Commissioner Green abstaining.*

6. Case No. 1852000001

**MODIFICATION TO AN APPROVED DEVELOPMENT  
ORDER/WESTPORT RESERVE PHASE 4**

North side of Town West Boulevard, East of Tomoka Farms Road

A request by the applicant to amend the previously approved Subdivision Plat & Plans for Westport Reserve Phase 4 to reduce the number of single-family lots from 78 to 71 single-family lots, along with associated subdivision improvements.

Staff Contact: Gwen Perney, (386) [506-5673](tel:3865065673)/[gperney@port-orange.org](mailto:gperney@port-orange.org)

Gwen Perney, Planner, provided an overview of the request for modification to an approved development order/Westport Reserve phase 4 and stated that staff recommends approving the request.

There was no discussion from the Board or public comments.

*Motion to approve Case No. 18-52000001 was made by Commissioner Arminio and Seconded by Vice Chairman Jordan. Motion carried unanimously by roll call vote.*

7. Case No. 18-25000006.

MORATORIUM/PERSONAL WIRELESS COMMUNICATIONS GOVERNED BY CHAPTER 16, SECTION 9 OF THE LDC

A 3-month moratorium on the submittal of site plans, subdivisions, conditional use, special exception, and change of use applications and the issuance of development orders, building permits, or zoning verification letters for personal wireless communications governed by Chapter 16, Section 9 of the Port Orange Land Development Code.

Staff Contact: Tim Burman (386) [5065675](tel:3865065675)/[tburman@portorange.org](mailto:tburman@portorange.org)

Tim Burman, Community Development Director, provided an overview of the request for a 3-month moratorium on the submittal of documents for personal wireless communications governed by Chapter 16, Section 9 of the LDC.

Commissioners Junco and Mills-Benat agree that this is a great idea and they have no issues with a 3-month moratorium.

Matthew Jones, Deputy City Attorney, stated the City is currently working with AT&T and is looking for another piece of isolated property for the location of the tower.

Vice Chairman Jordan asked if the three months will be enough time.

Mr. Jones replied if the time comes and an extension is needed the City Council can extend the timeframe with a resolution.

Chairman White stated when the City's current regulations were written it was prior to cell phone towers being built, and he would like to see some up to date revisions come from this.

Mr. Jones replied all regulations in Chapter 16, Section 9 in the Land Development Code will be considered but it is too early to determine what those revisions will be.

Walt Cagney, 830 Pine Forest Trail West, asked who initially tests the towers and who writes the specifications for the City.

Commissioner Junco stated a licensed engineer would calculate and test the tower and submit everything to the City which will then review and ask any questions they may have before issuing a permit.

*Motion to approve Case No. 18-25000006 was made by Commissioner Junco and Seconded by Vice Chairman Jordan. Motion carried unanimously by roll call vote.*

8. Case No.18-25000007  
LDC TEXT AMENDAMENT/CHAPTER 17, SECTION 26.

Amendment to Chapter 17, Section 26, of the Land Development Code, to remove the requirement for a public hearing to establish a permitted use in the Government/Public Use (GPU) zoning district.

Staff Contact: Penelope Cruz, (386) [506-5671/pcruz@port-orange.org](mailto:pcruz@port-orange.org)

Ms. Cruz provided an overview of the amendment to the Land Development Code (LDC) Chapter 17, Section 26 to remove the requirement for a public hearing to establish a permitted use in the GPU zoning district.

Chairman White asked if applicants apply for a change will notices and signs still go out.

Ms. Cruz replied the only time that signs are posted, and notices are sent out is if the applicant is applying for a rezoning or land use change or asking for a variance or something special.

*Motion to approve Case No. 18-25000007 was made by Vice Chairman Jordan and Seconded by Commissioner Arminio. Motion carried unanimously by roll call vote.*

### **C. OTHER BUSINESS**

#### **9. Commissioner Comments**

Commissioner Green spoke on his concerns with multiple land uses on one property.

Mr. Burman stated as long as the property is zoned for those uses and they meet the requirements of the code they can have multiple uses on that property.

Commissioner Green expressed his concerns for U.S. Food trucks being parked in the median in the dark with their lights off.

Mr. Jones stated he would pass that information along to US Foods.

Commissioner Green stated the WAWA near Nova Rd. has a pot hole in the driveway and he would like it fixed. He spoke on businesses using decorative walk lights on Dunlawton Avenue and wonders why we allow these because of the wires everywhere.

Mr. Burman will get with the Public Works Department to take a look at those and possibly move to the next phase of replacing them.

Commissioner Arminio spoke on the traffic and danger of the BJ'S entrance left turning lane heading West towards Taylor Road.

The Board discussed the dangers of people making a left turn onto Yorktowne Boulevard from behind the WAWA gas station and believe it should be a right turn only exit.

Commissioner Junco is proud of his fellow Commissioners for keeping the best interest of the City first.

10. Staff Comments- There were none.

D. **PUBLIC COMMENTS** There were none.

E. **ADJOURNMENT** 7:11PM



Chairman Newton White

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

ST NAME—FIRST NAME—MIDDLE NAME <i>Green, Lance</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Planning Commission</i>
MAILING ADDRESS <i>6469 Longlake Dr.</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY COUNTY <i>Port Orange Volusia</i>	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
DATE ON WHICH VOTE OCCURRED <i>8-23-18</i>	NAME OF POLITICAL SUBDIVISION: <i>City of Port Orange</i>
MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTEE	

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, Lance Green, hereby disclose that on August 23, 2018:

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_;
- inured to the special gain or loss of my relative, \_\_\_\_\_;
- inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Item #5 Case # 18-90000004 Variance at 4068 Carlisle Drive.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

8/24/18  
Date Filed

[Signature]  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.